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HOUSE BILL 889

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Jim R. Trujillo

AN ACT

RELATING TO PROCUREMENT; LIMITING THE USE OF COOPERATIVE
PROCUREMENT AGREEMENTS; CLARIFYING PROVISIONS FOR PROCUREMENTS
UNDER EXISTING CONTRACTS OR PRICE AGREEMENTS; AMENDING AND
REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-1-44 NMSA 1978 (being Laws 1984,
Chapter 65, Section 17) is amended to read:

"13-1-44. DEFINITION--COOPERATIVE PROCUREMENT.--

"Cooperative procurement" means:

A. for a local public body, procurement conducted
by or on behalf of more than one [~~state agency or~~] local public
body or by a [~~state agency or~~] local public body with an
external procurement unit; and

B. for a state agency, one, simultaneous

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1 procurement jointly conducted by two or more state agencies,
2 each acting in its capacity as a central purchasing office, in
3 accordance with the provisions of Section 13-1-135 NMSA 1978."

4 Section 2. Section 13-1-129 NMSA 1978 (being Laws 1984,
5 Chapter 65, Section 102, as amended) is amended to read:

6 "13-1-129. PROCUREMENT UNDER EXISTING CONTRACTS OR PRICE
7 AGREEMENTS.--

8 A. Notwithstanding the requirements of Sections
9 13-1-102 through 13-1-118 NMSA 1978, the state purchasing agent
10 or a central purchasing office may contract for services,
11 construction or items of tangible personal property without the
12 use of competitive sealed bids or competitive sealed proposals
13 as follows:

14 (1) at a price equal to or less than the
15 contractor's current general services administration federal
16 supply contract price [~~GSA~~], providing the contractor has
17 indicated in writing a willingness to extend such contractor
18 pricing, terms and conditions to the state agency or local
19 public body and the purchase order adequately identifies the
20 contract relied upon; or

21 (2) with a business [~~which~~] that has a current
22 exclusive or nonexclusive price agreement with the state
23 purchasing agent or a central purchasing office for the item,
24 services or construction meeting the same standards and
25 specifications as the items to be procured if the following

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1 conditions are met:

2 (a) the quantity purchased does not
3 exceed the quantity [~~which~~] that may be purchased under the
4 applicable price agreement; and

5 (b) the purchase order adequately
6 identifies the price agreement relied upon.

7 B. The central purchasing office shall retain for
8 public inspection and for the use of auditors a copy of each
9 federal supply [~~contractor~~] contract price list or state
10 purchasing agent price agreement relied upon to make purchases
11 without seeking competitive bids or proposals."

12 Section 3. Section 13-1-135 NMSA 1978 (being Laws 1984,
13 Chapter 65, Section 108, as amended) is amended to read:

14 "13-1-135. COOPERATIVE PROCUREMENT AUTHORIZED.--

15 A. [~~Any state agency or~~] A local public body may
16 either participate in, sponsor or administer a cooperative
17 procurement agreement for the procurement of any services,
18 construction or items of tangible personal property with any
19 other [~~state agency~~] local public body or external procurement
20 unit in accordance with an agreement entered into and approved
21 by the governing authority of each of the [~~state agencies~~]
22 local public bodies or external procurement units involved.
23 The cooperative procurement agreement shall clearly specify the
24 purpose of the agreement and the method by which the purpose
25 will be accomplished. Any power exercised [~~under~~] in

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1 accordance with a cooperative procurement agreement entered
2 into pursuant to this subsection shall be limited to the
3 central purchasing authority common to the contracting parties,
4 even though one or more of the contracting parties may be
5 located outside this state. [~~An approved and signed copy of~~
6 ~~all cooperative procurement agreements entered into pursuant to~~
7 ~~this subsection shall be filed with the state purchasing~~
8 ~~agent.~~] A cooperative procurement agreement entered into
9 pursuant to this subsection is limited to the procurement of
10 items of tangible personal property, services, or construction.

11 B. [~~Notwithstanding the provisions of Subsection A~~
12 ~~of this section]~~ A cooperative procurement agreement providing
13 for mutually held funds or for other terms and conditions
14 involving public funds or property included in Section 11-1-4
15 NMSA 1978 shall be entered into pursuant to the provisions of
16 the Joint Powers Agreements Act.

17 C. [~~Central purchasing offices other than the state~~
18 ~~purchasing agent may cooperate by agreement with the state~~
19 ~~purchasing agent in obtaining contracts or price agreements,~~
20 ~~and such contract or agreed prices shall apply to purchase~~
21 ~~orders subsequently issued under the agreement.] A state
22 agency, when acting pursuant to its statutory authority to act
23 as a central purchasing office, may, in one, simultaneous
24 procurement, jointly conduct cooperative procurements with
25 other state agencies that are also acting as central purchasing~~

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1 offices. Nothing in this section shall be construed to
2 preclude state agencies from participating in price agreements
3 or existing contracts as authorized in Section 13-1-129 NMSA
4 1978 or be construed to expand or increase each state agency's
5 individual authority to operate as a central purchasing office.
6 A cooperative procurement agreement entered into pursuant to
7 this subsection for the procurement of items of tangible
8 personal property, services other than professional services or
9 construction shall receive prior approval of the state
10 purchasing agent. A cooperative procurement agreement entered
11 pursuant to this subsection solely for professional services
12 does not need prior approval of the state purchasing agent."

13 Section 4. REPEAL.--Section 13-1-136 NMSA (being Laws
14 1984, Chapter 65, Section 9) is repealed.

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